

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

LINDA SARSOUR, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 1:17-cv-00120 (AJT/IDD)
)	
DONALD J. TRUMP,)	
President of the United States,)	
<i>et al.</i> ,)	
)	
Defendants.)	
_____)	

CONSENT MOTION TO STAY THE PROCEEDINGS

Pursuant to this Court’s inherent authority, Defendants, through undersigned counsel, hereby respectfully submit this consent motion to stay the proceedings in the above-captioned action.¹ The grounds for this motion are as follows:

1. Plaintiffs’ Amended Complaint challenges Executive Order 13780 (“Executive Order”), “Protecting the Nation from Foreign Terrorist Entry into the United States,” issued on March 6, 2017.
2. On March 13, 2017, Plaintiffs moved for a Temporary Restraining Order (“TRO”) and/or a Preliminary Injunction in this matter. ECF No. 13. Defendants opposed, ECF No. 22, and after hearing argument on May 21, 2017, the Court denied Plaintiffs’ motion on March 24, 2017. ECF No. 36.
3. In other litigation challenging the Executive Order, nationwide injunctions have issued barring the enforcement of several sections of the Executive Order. In *Int’l Refugee*

¹ Plaintiffs consent to stay proceedings on the basis that Plaintiffs will be filing a motion to intervene on behalf of John Doe No. 8 in *Int’l Refugee Assistance Project v. Trump*, No. 17-1351 (4th Cir.), on the APA and INA claims at issue in that appeal.

Assistance Project v. Trump, the United States District Court for the District of Maryland enjoined Section 2(c) of the Executive Order. *See Int’l Refugee Assistance Project v. Trump*, 2017 WL 1018235 (D. Md. Mar. 16, 2017), appeal docketed, No. 17-1351 (4th Cir. Mar. 17, 2017). An appeal in that action is presently pending before the United States Court of Appeals for the Fourth Circuit, where briefing will be complete by April 21, 2017, and oral argument before the *en banc* court is set for May 8, 2017. *See* Order, No. 17-1351 (4th Cir. Mar. 23, 2017), Dkt. No. 25.²

4. Further proceedings in this Court are likely to be shaped by the Fourth Circuit’s consideration of the legal issues presented in *IRAP*. Defendants therefore respectfully request that the Court stay further proceedings pending the outcome of that appeal.

5. “A district court has the ‘inherent power’ to stay a pending action to ensure both the ‘efficient management of [its] docket[,]’ as well as ‘economy of time and effort for itself, for counsel, and for litigants.’” *Hawley v. Johnson & Johnson*, 2011 WL 7946243, at *1 (E.D. Va. Apr. 29, 2011) (quoting *Williford v. Armstrong World Indus.*, 715 F.2d 124, 127 (4th Cir. 1983); *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)). When considering a motion to stay, a court should consider three factors: “(1) the interests of judicial economy; (2) hardship and equity to the moving party if the action is not stayed; [and] (3) potential prejudice to the non-moving party.” *Sehler v. Prospect Mortg., LLC*, 2013 WL 5184216, at *2 (E.D. Va. Sept. 16, 2013)

² A separate nationwide preliminary injunction of Sections 2 and 6 of the Executive Order has been entered by the United States Court for the District of Hawaii. *See Haw. v. Trump* ___ F. Supp. 3d ___, 2017 WL 1011673 (D. Haw. Mar. 15, 2017) (granting Temporary Restraining Order (“TRO”)); *Haw. v. Trump*, 2017 WL 1167383 (Mar. 29, 2017) (converting TRO to preliminary injunction). The government has appealed the injunction to the Ninth Circuit, which in turn adopted an expedited briefing schedule and will hear oral argument on May 15, 2017. *See* Case No. 17-15589 (9th Cir.), Dkt. Nos. 14, 18. In the meantime, the District of Hawaii adopted the Hawaii parties’ joint motion to stay further district court proceedings in that case pending resolution of the appeal. *See* No. 17-cv-50 (D. Haw. Apr. 3, 2017), Dkt. No. 279.

(internal quotation marks omitted); *see also* *Hawley*, 2011 WL 7946243, at *1 (“When determining whether a stay is appropriate, a district court must ‘weigh competing interests and maintain an even balance.’” (quoting *Landis*, 299 U.S. at 255)). In general, the decision of whether to stay a case “lies within the sound discretion” of the court. *See Fisher v. United States*, 2013 WL 6074076, at *4 (E.D. Va. Nov. 18, 2013).

6. Here, all of the factors articulated in *Sehler* weigh in favor of a stay. Because this motion is submitted by consent, there is no potential prejudice to either party if the stay is granted. In the interests of judicial economy, a stay would avoid the unnecessary and burdensome expenditure of the parties’ and this Court’s resources that would be required to adjudicate both the jurisdictional and merits issues presented in this action. Moreover, no hearings have been scheduled in this action, and there are no pending deadlines (other than defendants’ initial response to the complaint pursuant to Federal Rule 12(a)); therefore, a stay would not affect any current proceedings in this Court.

7. This consent motion is being filed in lieu of a motion to dismiss (or a responsive pleading), which presently is due – pursuant to this Court’s order, ECF No. 39 – on April 24, 2017. Should this Court deny the motion, defendants respectfully request that they be permitted to file its initial response to the complaint within ten (10) days of this Court entering such a denial.

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8. A proposed Order is provided for the convenience of the Court.

April 21, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will transmit a true and correct copy of the same to the following:

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Date: April 21, 2017

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